House of Representatives



General Assembly

File No. 692

January Session, 2019

Substitute House Bill No. 7210

House of Representatives, April 17, 2019

The Committee on Government Administration and Elections reported through REP. FOX of the 148th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CAMPAIGN CONSULTANTS, COORDINATION AND USE OF FUNDS UNDER THE CITIZENS' ELECTION PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 9-601 of the general statutes is amended by adding
- 2 subdivisions (32) and (33) as follows (*Effective from passage*):
- 3 (NEW) (32) "Consultant" means any person (A) that provides (i)
- 4 campaign strategy, (ii) design or management of campaign
- 5 communications, literature or advertising, or (iii) fundraising or
- 6 management services, or (B) with duties that include identifying,
- 7 hiring or paying subvendors for goods or services on behalf of a
- 8 committee or person required to file a report pursuant to section 9-
- 9 601d or 9-608, as applicable.
- 10 (NEW) (33) (A) "Subvendor" means any person that provides goods
- or services to a consultant or that contracts with a consultant or other

subvendor to provide goods or services to a committee or person required to file a report pursuant to section 9-601d or 9-608, as applicable.

- (B) "Subvendor" does not include a person who is an employee of a consultant if such person has been an employee of such consultant for three or more consecutive months prior to any month in which a committee or person is required to file a report accounting for any expenditure to such consultant or any subvendor for such consultant.
- Sec. 2. Section 9-622 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):
- The following persons shall be guilty of illegal practices and shall be punished in accordance with the provisions of section 9-623:
 - (1) Any person who, directly or indirectly, individually or by another person, gives or offers or promises to any person any money, gift, advantage, preferment, entertainment, aid, emolument or other valuable thing for the purpose of inducing or procuring any person to sign a nominating, primary or referendum petition or to vote or refrain from voting for or against any person or for or against any measure at any election, caucus, convention, primary or referendum;
 - (2) Any person who, directly or indirectly, receives, accepts, requests or solicits from any person, committee, association, organization or corporation, any money, gift, advantage, preferment, aid, emolument or other valuable thing for the purpose of inducing or procuring any person to sign a nominating, primary or referendum petition or to vote or refrain from voting for or against any person or for or against any measure at any such election, caucus, primary or referendum;
 - (3) Any person who, in consideration of any money, gift, advantage, preferment, aid, emolument or other valuable thing paid, received, accepted or promised to the person's advantage or any other person's advantage, votes or refrains from voting for or against any person or

for or against any measure at any such election, caucus, primary or referendum;

- (4) Any person who solicits from any candidate any money, gift, contribution, emolument or other valuable thing for the purpose of using the same for the support, assistance, benefit or expenses of any club, company or organization, or for the purpose of defraying the cost or expenses of any political campaign, primary, referendum or election;
- (5) Any person who, directly or indirectly, pays, gives, contributes or promises any money or other valuable thing to defray or towards defraying the cost or expenses of any campaign, primary, referendum or election to any person, committee, company, club, organization or association, other than to a treasurer, except that this subdivision shall not apply to any expenses for postage, telegrams, telephoning, stationery, express charges, traveling, meals, lodging or photocopying incurred by any candidate for office or for nomination to office, so far as may be permitted under the provisions of this chapter;
- (6) Any person who, in order to secure or promote the person's own nomination or election as a candidate, or that of any other person, directly or indirectly, promises to appoint, or promises to secure or assist in securing the appointment, nomination or election of any other person to any public position, or to any position of honor, trust or emolument; but any person may publicly announce the person's own choice or purpose in relation to any appointment, nomination or election in which the person may be called to take part, if the person is nominated for or elected to such office;
- (7) Any person who, directly or indirectly, individually or through another person, makes a payment or promise of payment to a treasurer in a name other than the person's own, and any treasurer who knowingly receives a payment or promise of payment, or enters or causes the same to be entered in the person's accounts in any other name than that of the person by whom such payment or promise of payment is made;

76 (8) Any person who knowingly and wilfully violates any provision 77 of this chapter;

- 78 (9) Any person who offers or receives a cash contribution in excess 79 of one hundred dollars to promote the success or defeat of any political 80 party, candidate or referendum question;
- 81 (10) Any person who solicits, makes or receives a contribution that 82 is otherwise prohibited by any provision of this chapter;
- 83 (11) Any department head or deputy department head of a state 84 department who solicits a contribution on behalf of, or for the benefit 85 of, any candidate for state, district or municipal office or any political 86 party;
- (12) Any municipal employee who solicits a contribution on behalf of, or for the benefit of, any candidate for state, district or municipal office, any political committee or any political party, from (A) an individual under the supervision of such employee, or (B) the spouse or a dependent child of such individual;
 - (13) Any person who makes an expenditure, that is not an independent expenditure, for a candidate without the knowledge of such candidate. No candidate shall be civilly or criminally liable with regard to any such expenditure;
 - (14) Any chief of staff of a legislative caucus who solicits a contribution on behalf of or for the benefit of any candidate for state, district or municipal office from an employee of the legislative caucus;
 - (15) Any chief of staff for a state-wide elected official who solicits a contribution on behalf of or for the benefit of any candidate for state, district or municipal office from a member of such official's staff; [or]
 - (16) Any chief of staff for the Governor or Lieutenant Governor who solicits a contribution on behalf of or for the benefit of any candidate for state, district or municipal office from a member of the staff of the Governor or Lieutenant Governor, or from any commissioner or

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deputy commissioner of any state agency; [.]

- 107 (17) Any consultant that fails to provide complete information to a 108 committee or person required to file any disclosure statement or report
- 109 pursuant to section 9-601d or 9-608, as applicable, which complete
- information is necessary for such committee or person to file such
- 111 <u>statement or report;</u>
- 112 (18) Any consultant that (A) except for such consultant's overhead
- or normal operating expenses, makes or obligates to make an
- 114 expenditure, or directly or indirectly authorizes any subvendor to
- 115 make or obligate to make such an expenditure, on behalf of a
- candidate, committee or other person, and (B) does so without the
- 117 knowledge of such candidate, committee or other person; or
- 118 (19) Any person that structures or assists in structuring, or attempts
- 119 to structure or assist in structuring, any solicitation, contribution,
- 120 expenditure, disbursement or other transaction for the purpose of
- 121 evading the requirements of chapters 155 to 157, inclusive.
- Sec. 3. (NEW) (Effective from passage) (a) (1) A consultant that
- receives or agrees to receive two thousand five hundred dollars or
- more, in the aggregate, and that makes or obligates to make any
- 125 expenditure, including any payment to a subvendor, on behalf of a
- person or committee required to file a report pursuant to section 9-
- 127 601d or 9-608 of the general statutes, as applicable, shall, once such
- 128 consultant has made or obligated to make any such expenditure in
- excess of five hundred dollars, in the aggregate, in a calendar year to a
- subvendor, provide to such person or committee a statement with a
- detailed account of such expenditure, including, but not limited to, (A)
- the amount and date of such expenditure and the person who received such payment, (B) the full name and street address of such subvendor,
- 134 (C) the purpose of such payment and a description of such purpose,
- 135 (D) the name of any candidate or text of any referendum question
- supported or opposed by such expenditure, and (E) if applicable, the
- date of any event with which such payment is associated, including,
- but not limited to, any expenditure directly or indirectly made by a

consultant to a subvendor for any (i) written, typed or other printed communication, or any web-based written communication, that (I) promotes the success or defeat of any candidate's campaign for nomination or election or any referendum question, or (II) solicits funds to benefit any candidate or committee, (ii) advertising time or space, including, but not limited to, television or Internet video, radio or Internet audio, telephone call or web-based or social media communication, (iii) wages incurred as a result of work for any candidate or committee, (iv) survey, poll, signature gathering or doorto-door solicitation of voters, (v) facilities, invitations or entertainment for fundraising or other campaign events, or (vi) printing of mass campaign mailings or postage for such mailings. Such consultant shall provide the information described in this subdivision to such person or committee not later than five days after making or obligating to make such expenditure. As used in this section, "consultant", "expenditure", "subvendor", "committee" and "person" have the same meanings as provided in section 9-601 of the general statutes, as amended by this act.

- (2) Notwithstanding the provisions of subdivision (1) of this subsection, if a consultant makes or obligates to make payment for an expenditure for which a person or committee is required to file a report pursuant to section 9-601d or 9-608 of the general statutes, as applicable, such consultant shall, concomitant with making or obligating to make such payment, provide to such person or committee complete information necessary to file such report.
- (b) (1) Any person or committee that makes or obligates to make payment for an expenditure to a consultant, which consultant is required to provide to such person or committee the information described in subsection (a) of this section, shall include in any statement or report required to be filed by such person or committee pursuant to section 9-601d or 9-608 of the general statutes, as applicable, (A) the full name and street address of each subvendor to which payment of five hundred dollars or more, in the aggregate, was made or obligated to be made during the period covered by such

filing, (B) the amount and date of such payment, (C) the purpose of such payment and a description of such purpose, (D) the name of any candidate or text of any referendum question supported or opposed by such expenditure, and (E) if applicable, the date of any event with which such payment is associated. The contents of such statement or report shall include any other information that the State Elections Enforcement Commission may require to facilitate compliance with the provisions of chapters 155 to 157, inclusive, of the general statutes, and shall be submitted on a form prescribed by the commission.

- (2) Except for such consultant's overhead or normal operating expenses, a consultant shall not make any expenditure of five hundred dollars or more, in the aggregate, to or for the benefit of a candidate or committee, including, but not limited to, any expenditure described in subdivision (1) of subsection (a) of this section, unless complete information of such expenditure is provided to the person required to file a report under section 9-601d or 9-608 of the general statutes, as applicable, or the committee on whose behalf or for whose benefit such consultant is acting.
- (c) Each consultant shall keep a detailed account of each expenditure made or obligated to be made on behalf of any person or committee required to file a report under section 9-601d or 9-608 of the general statutes, as applicable, and shall retain all records of each transaction required to be included in any statement or report filed pursuant to section 9-601d or 9-608 of the general statutes, as applicable, for a period of four years after the date of the statement or report in which such transaction was included. Such records shall include, but need not be limited to, any invoice, receipt, bill, statement, itinerary or other written or documentary evidence demonstrating the campaign or other lawful purpose of such expenditure.
- (d) If a subvendor makes or obligates to make any payment described in subsection (a) of this section, such subvendor shall be deemed a consultant and shall, pursuant to this section, comply with the requirements for a consultant.

(e) Notwithstanding the provisions of subsections (a) to (d), inclusive, of this section, a financial obligation shall not be made or incurred by or on behalf of a committee unless authorized by the treasurer of such committee pursuant to section 9-607 of the general statutes.

- Sec. 4. Section 9-703 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):
- 213 (a) Each candidate for nomination or election to the office of state 214 senator or state representative in 2008, or thereafter, or the office of 215 Governor, Lieutenant Governor, Attorney General, State Comptroller, 216 Secretary of the State or State Treasurer in 2010, or thereafter, shall file 217 an affidavit with the State Elections Enforcement Commission. The 218 affidavit shall include a written certification that the candidate either 219 intends to abide by the expenditure limits under the Citizens' Election 220 Program set forth in subsection (c) of section 9-702 [,] or does not 221 intend to abide by [said] such limits. If the candidate intends to abide 222 by [said] such limits, the affidavit shall also include written 223 certifications (1) that the treasurer of the candidate committee for said 224 candidate shall expend any moneys received from the Citizens' 225 Election Fund in accordance with the provisions of subsection (g) of 226 section 9-607 and regulations adopted by the State Elections 227 Enforcement Commission under subsection (e) of section 9-706, (2) that 228 the candidate shall repay to the fund any such moneys that are not 229 expended in accordance with subsection (g) of section 9-607 and said 230 regulations, (3) that the candidate and the treasurer shall comply with 231 the provisions of subdivision (1) of subsection (a) of section 9-711, and 232 (4) stating the candidate's status as a major party, minor party or 233 petitioning party candidate and, in the case of a major party or minor 234 party candidate, the name of such party. The written certification 235 described in subdivision (3) of this subsection shall be made by both 236 the candidate and the treasurer of the candidate committee for said 237 candidate. A candidate for nomination or election to any such office 238 shall file such affidavit not later than four o'clock p.m. on the twenty-239 fifth day before the day of a primary, if applicable, or on the fortieth

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day before the day of the election for such office, except that in the case of a special election for the office of state senator or state representative, the candidate shall file such affidavit not later than four o'clock p.m. on the twenty-fifth day before the day of such special election. Notwithstanding the provisions of this subsection, a candidate who is not required to form a candidate committee pursuant to subdivision (3) or (4) of subsection (b) of section 9-604, files a certification with the commission pursuant to subsection (c) of section 9-603 and does not intend to participate in the Citizens' Election Program shall not be required to file such affidavit of intent not to abide by the expenditure limits of said program. Any such candidate shall be referred to as a nonparticipating candidate, in accordance with subsection (b) of this section.

- (b) A candidate who so certifies the candidate's intent to abide by the expenditure limits under the Citizens' Election Program set forth in subsection (c) of section 9-702 shall be referred to in sections 9-700 to 9-716, inclusive, as a "participating candidate" and a candidate who so certifies the candidate's intent to not abide by [said] <u>such</u> limits shall be referred to in sections 9-700 to 9-716, inclusive, as a "nonparticipating candidate". The commission shall prepare a list of the participating candidates and a list of the nonparticipating candidates and shall make such lists available for public inspection.
- (c) A participating candidate may withdraw from participation in the Citizens' Election Program before applying for an initial grant under section 9-706, by filing an affidavit with the State Elections Enforcement Commission, which includes a written certification of such withdrawal. A candidate who files such an affidavit shall be deemed to be a nonparticipating candidate for the purposes of sections 9-700 to 9-716, inclusive, and shall not be penalized for such withdrawal. No participating candidate shall withdraw from participation in the Citizens' Election Program after applying for an initial grant under section 9-706.
- 272 (d) If the treasurer of the candidate committee of a participating

candidate spends fifteen per cent or more, in the aggregate, of the moneys received from the Citizens' Election Fund on the campaign or committee services of a consultant, as defined in section 9-601, as amended by this act, or other professional person as provided in subparagraph (P) of subdivision (2) of subsection (g) of section 9-607, such consultant or professional person shall register with the State Elections Enforcement Commission as such for such candidate committee and file an affidavit with the commission, which affidavit shall include a written certification that such consultant or professional person also intends to abide by the expenditure limits under the Citizens' Election Program set forth in subsection (c) of section 9-702. The commission shall prepare a list of each such consultant or professional person for the candidate committee of a participating candidate and shall make such list available for public inspection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	from passage	9-601
Sec. 2	from passage	9-622
Sec. 3	from passage	New section
Sec. 4	from passage	9-703

Statement of Legislative Commissioners:

In Section 1, "a committee or a person" was changed to "a committee or person" for clarity; in Section 2, the provision was restructured in Subdiv. (17) for clarity, and "other than" was changed to "except" in Subdiv. (18) for consistency; in Section 3, "under section 9-601d" was changed to "pursuant to section 9-601d" for consistency, "text of any" was inserted before "referendum question" for accuracy and clarity and "therefor" was changed to "for such mailings" for consistency; and in Section 4, "said limits" was changed to "[said] such limits" for consistency and "or professional person" was inserted after "consultant" for accuracy.

GAE Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill: 1) defines "consultant" and "subvendor" and establishes registration, reporting, and record keeping requirements for them, 2) requires consultants and other professionals that work with candidates participating in the Citizens' Election Program to register with the State Elections Enforcement Commission (SEEC) under certain conditions, 3) establishes three additional illegal campaign finance practices, and 4) makes various other technical changes.

No fiscal impact to SEEC is anticipated as they have the expertise to process registrations and handle reporting requirements. Further, no impact is anticipated due to violations of illegal campaign finance practices as there have been no violations under the current law since 2014, in which one violation resulted in a plea and no fine.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis sHB 7210

AN ACT CONCERNING CAMPAIGN CONSULTANTS, COORDINATION AND USE OF FUNDS UNDER THE CITIZENS' ELECTION PROGRAM.

SUMMARY

By law, treasurers of party committees, candidate committees, and political committees (known as PACs) may pay consultants or other professional persons for campaign or committee services. This bill defines "consultant" and "subvendor" for campaign finance purposes and establishes registration, reporting, and record keeping requirements for them.

Principally, the bill does the following:

- requires consultants to provide detailed accountings of their expenditures, including to subvendors, to committees or persons on whose behalf they make payments;
- 2. requires committees and persons that make or obligate to make payments for expenditures to consultants to submit additional information in their campaign finance disclosure statements or independent expenditure (IE) reports, as applicable;
- 3. requires consultants to maintain, for at least four years, detailed records of certain expenditures transactions;
- 4. prohibits a financial obligation from being made or incurred on behalf of a committee unless authorized by the treasurer;
- 5. requires consultants and other professionals that work with candidates participating in the Citizens' Election Program (CEP) to register with the State Elections Enforcement Commission

(SEEC) under certain conditions; and

6. establishes three additional illegal campaign finance practices.

The bill also makes technical changes.

EFFECTIVE DATE: Upon passage

DEFINITIONS

The bill defines "consultant" as a person (1) that provides campaign strategy; design or management of campaign communications, literature, or advertising; or fundraising or management services, or (2) with duties that include identifying, hiring, or paying subvendors for goods or services on behalf of a committee or person required to file a campaign finance disclosure statement or IE report (hereafter "required filer").

"Subvendor" means a person that (1) provides goods or services to a consultant or (2) contracts with a consultant or other subvendor to provide goods or services to a required filer. It does not include a consultant's employee who has been employed by the consultant for at least three consecutive months prior to any month when a person or committee must file a report that accounts for an expenditure to the consultant or one of his or her subvendors.

REPORTING

Consultants

The bill establishes reporting requirements for consultants that (1) receive or agree to receive at least \$2,500 in the aggregate and (2) make or obligate to make expenditures, including payments to subvendors, on behalf of a required filer. Under existing law and the bill, consultants may work on behalf of party committees, candidate committees, and PACs.

Specifically, no later than five days after making or obligating to make an expenditure that exceeds \$500 in the aggregate in a calendar year to a subvendor, the consultant must provide the person or

committee with detailed accounting of the expenditure. If a consultant makes or obligates to make a payment for an expenditure that requires a committee or person to file a campaign finance disclosure statement or IE report, the consultant must, at the same time, provide that person or committee with all the information necessary to file the statement or report.

The detailed account must include the following information:

- 1. expenditure's amount and date, and the name of the person who received the payment;
- 2. subvendor's full name and street address;
- 3. description of the payment's purpose;
- 4. name of any candidate, or text of any referendum question, the expenditure supports or opposes; and
- 5. date of any event associated with the payment.

The bill specifies that expenditures triggering this reporting requirement include those made, directly or indirectly, to a subvendor for:

- a written, typed, or other printed communication, or any webbased written communication, that (a) promotes the success or defeat of a candidate's campaign for nomination or election, or any referendum question, or (b) solicits funds to benefit any candidate or committee;
- 2. advertising time or space, including television or Internet video, radio or Internet audio, telephone call, or web-based or social media communication;
- 3. wages incurred as a result of work for any candidate or committee;
- 4. survey, poll, signature gathering, or door-to-door voter

solicitation;

5. facilities, invitations, or entertainment for fundraising or other campaign events; or

6. printing of, or postage for, mass campaign mailings.

The bill prohibits a consultant from making an expenditure that exceeds the \$500 threshold without providing all of the required information to the applicable committee or person. The prohibition does not apply to overhead or normal operating expenses.

Subvendors

Under the bill, a subvendor is deemed a consultant if it makes the types of payments described above, including payments to other subvendors. At that point, it must comply with the bill's reporting and record-keeping requirements.

Persons and Committees that Pay Consultants

Under the bill, if a committee or person makes or obligates payments for an expenditure to a consultant that is subject to the above reporting requirements, the committee or person must submit additional information in the campaign finance disclosure statements or IE reports it files with SEEC or a town clerk, as applicable. Specifically, these statements and IE reports must include all of the information that the bill requires the consultant to provide to the committee or person (see above). The committee or person must also include any other information SEEC requires to facilitate compliance with state campaign finance laws.

MAINTAINING RECORDS

The bill requires consultants, including subvendors deemed consultants under the bill, to keep detailed accounts of each expenditure made or obligated on behalf of a required filer. They must also keep, for at least four years, records of each transaction required to be included in such a statement or report.

These records must include any invoice, receipt, bill, statement, itinerary, or other written or documentary evidence demonstrating the expenditure's campaign or other lawful purpose.

APPROVING FINANCIAL OBLIGATIONS

Generally, under existing law, a committee cannot incur a financial obligation unless authorized by its treasurer (CGS § 9-607). The bill additionally prohibits a financial obligation from being made or incurred on behalf of a committee unless authorized by the treasurer. Thus, under the bill, it appears that treasurers must approve financial obligations incurred by consultants or subvendors on behalf of the committee.

CONSULTANTS AND CEP CANDIDATE COMMITTEES

Under the bill, if a participating candidate's treasurer spends 15% or more, in the aggregate, of the candidate committee's Citizens' Election Fund grants on a consultant's or other professional's campaign or committee services, that person must register with SEEC by filing an affidavit. The affidavit must certify in writing the consultant's or professional's intent to abide by the CEP's spending limits. Generally, by law, a participating candidate's committee must limit its spending to (1) prescribed amounts of qualifying contributions and candidate's personal funds and (2) grants received under the program.

Under the bill, the registration applies to the candidate committee with which the consultant or professional works. SEEC must prepare and make publicly available a list of each registered consultant or other professional for each participating CEP candidate.

By law, the CEP is the state's voluntary public campaign financing system. Participating legislative and statewide office candidates are eligible to receive state grants to fund their campaigns if they (1) receive qualifying contributions; (2) agree to abide by the spending limits; and (3) comply with other requirements, including for documenting and reporting expenditures.

ILLEGAL PRACTICES

The bill establishes three additional illegal campaign finance practices. By law, those who knowingly and willfully commit an illegal practice are guilty of a class D felony, punishable by imprisonment of up to five years, a fine of up to \$5,000, or both (CGS § 9-623).

Under the bill, the following are guilty of an illegal practice:

- 1. a consultant that fails to provide complete information to a committee or person so that it may file any required campaign finance disclosure statement or IE report;
- 2. a consultant that, except for overhead or normal operating expenses, makes or obligates to make an expenditure, or directly or indirectly authorizes a subvendor to make or obligate to make an expenditure, on behalf of a candidate, PAC, or other person without their knowledge; or
- 3. a person that structures, assists in structuring, or attempts to structure or assist in structuring, a solicitation, contribution, expenditure, disbursement, or other transaction in order to evade state campaign finance laws.

BACKGROUND

Related Bill

sHB 5823, reported favorably by the Government Administration and Elections Committee, also requires consultants and other professionals that work with participating CEP candidates to register with SEEC.

HB 7329, reported favorably by the Government Administration and Elections Committee, also makes it an illegal practice to structure, assist in structuring, or attempt to structure or assist in structuring, a solicitation, contribution, expenditure, disbursement, or other transaction in order to evade state campaign finance laws.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/29/2019)